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REMARKS

Claims 1-35 are all the claims presently pending in the application.

While Applicant believes that all of the claims are patentable over the cited references, to speed prosecution, claims 3, 26, and 27 are amended to define more clearly and particularly the features of the claimed invention. It is noted that the claim amendments are made only for more particularly pointing out the invention, and not for distinguishing the invention over the prior art, narrowing the claims or for any statutory requirements of patentability. Further, Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1, 2, 6-8, 11-14, 16-19, 26-29, and 31-35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Srinivasan et al. (U.S. Publication 2002/0022488) in view of Lehikoinen, et al. (U.S. Patent No. 6,847,823). Claims 3 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Srinivasan in view of Lehikoinen, and further in view of Carley (U.S. Patent No. 6,574,484). Claims 4, 5, 9, 10, and 20-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Srinivasan in view of Lehikoinen, and further in view of Farris (U.S. Patent No. 6,167,253).

These rejections are respectfully traversed in the following discussion.

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I. THE CLAIMED INVENTION

The present invention generally relates to a system and method for locating an alternate communication mechanism in the case of a failure of a wireless communication device (e.g., see specification at page 1, lines 6-9).

In an illustrative, non-limiting aspect of the invention, as defined for example by independent claim 1, a system for locating an alternate communication mechanism in case of a failure of a wireless device includes a location tracker for continuously transmitting information to the wireless device for allowing a user to locate an alternate communication mechanism after the failure has occurred.

An exemplary aspect of the system includes a display, on the wireless device, for allowing the wireless device to display information that was received prior to the failure. Additionally or alternatively, an exemplary aspect of the invention can include a speaker, on the wireless device, for allowing the wireless device to play audio information that was received prior to the failure, as exemplarily defined by dependent claim 3.

A failure of the wireless device can include, among other things, a loss of capability to perform an intended purpose of the wireless device, a loss of connection to a wireless network, a loss of wireless network coverage, a loss of battery power, a loss of adequate battery power necessary for communication, a loss of battery power necessary to maintain a network connection, and/or a loss of capability of the wireless device to transmit signals, as exemplarily defined by dependent claim 3.

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The present invention has recognized that, while a considerable amount of battery power is required for the wireless device to transmit signals, it takes very little power to display the information on a liquid crystal display (LCD) or the like, or to play it through a speaker (e.g., see specification at page 5, lines 13-16). Thus, even if the wireless device has lost its capability to transmit signals, it can still display (or play) information that was received prior to the failure such that the user of the wireless device can locate an alternate communication mechanism. The information may include, among other things, directions to the nearest pay phone, the nearest house or facility, the nearest location offering wireless coverage and/or recharging facilities, etc. (e.g., see specification at page 5, lines 17-19, and page 6, lines 1-2).

Independent claims 26, 27, 34, and 35 recite somewhat similar features as described above.

II. THE PRIOR ART REJECTIONS

A. Claims 1, 2, 6-8, 11-14, 16-19, 26-29, and 31-35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Srinivasan in view of Lehtikoinen.

In the Response to Arguments, the Examiner states that the Examiner agrees that Srinivasan does not disclose or suggest a failure of the wireless device. However, the Examiner states that the limitation "*a failure of a wireless device*" is only recited in the preamble, and the preamble is not given patentability weight when the Examiner considers the claim as a whole (see Office Action at page 5, last paragraph, and page 6, lines 1-4).

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However, in the rejection, the Examiner also acknowledges that Srinivasan does not explicitly disclose allowing a user to locate an alternate mechanism after a failure has occurred (i.e., a loss of wireless coverage), which is recited in the body of the claims (see Office Action at page 3, lines 9-12).

However, the Examiner alleges that Lehtikoinen makes up for the deficiencies of Srinivasan by disclosing a system which allows a user to locate a remote server in case the mobile station can not communicate with a local information beacon (e.g., see Lehtikoinen at column 7, line 65 to column 8, line 13). Thus, the Examiner asserts that it would have been obvious to modify Srinivasan to allow a user to locate an alternate mechanism after a failure has occurred in order for the system to provide the wireless device an alternate way of receiving communication services when the wireless device is out of range of the pushed information services, as allegedly disclosed by Lehtikoinen (see Office Action at page 3, lines 16-22).

Applicant respectfully submits, however, that there are features of the claimed invention which clearly are not disclosed or suggested by Srinivasan and Lehtikoinen, either individually or in combination.

To summarize, Applicant submits that, even assuming *arguendo* that it would have been obvious to combine Srinivasan and Lehtikoinen, as alleged, the resulting combination still would not arrive at the claimed invention. Instead, the Examiner's alleged combination would arrive at a completely different invention than the claimed invention. Indeed, the alleged combination clearly would not even address or solve the problems being solved by the claimed invention, such

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as a problem where the battery power is inadequate for communication, etc., as recited by
independent claims 26, 27, 34, and 35.

That is, independent claims 1, 26, 27, 34, and 35 do not recite locating a remote server in case the mobile station cannot communicate with the local beacon. Instead, independent claim 1, for example, recites "a location tracker for continuously transmitting information to the wireless device for allowing a user to locate an alternate communication mechanism after the failure has occurred" (emphasis added).

Thus, for at least the following reasons, Applicant submits that Lehtikainen clearly does not make up for the deficiencies of Srinivasan by disclosing a system which allows a user to locate a remote server in case the mobile station cannot communicate with a local information beacon (e.g., see Lehtikainen at column 7, line 65 to column 8, line 13).

Independent claim 1

As mentioned above, independent claim 1 recites, *inter alia*, a system for locating an alternate communication mechanism in case of a failure of a wireless device, including "a location tracker for continuously transmitting information to the wireless device for allowing a user to locate an alternate communication mechanism after the failure has occurred" (emphasis added).

Independent claims 26, 27, 34, and 35 recite somewhat similar features.

The present invention has recognized that, while a considerable amount of battery power is required for the wireless device to transmit signals, it takes very little power to display the

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information, which has been continuously transmitted to the wireless device, on a liquid crystal display (LCD) or the like, or to play it through a speaker (e.g., see specification at page 5, lines 13-16). Thus, even if the wireless device has lost its capability to transmit signals, it can still display (or play) information that was received prior to the failure such that the user of the wireless device can locate an alternate communication mechanism. The information may include, among other things, directions to the nearest pay phone, the nearest house or facility, the nearest location offering wireless coverage and/or recharging facilities, etc. (e.g., see specification at page 5, lines 17-19, and page 6, lines 1-2).

SRINIVASAN

In comparison, Srinivasan discloses a method of communicating inferred information to a wireless communication device. The method includes determining a location of the wireless device, inferring a likely interest of the user from the location of the wireless device, and then transmitting data related to the interest to the wireless device. The method may also ascertain time at the location of the wireless communication device user and infer an interest of the user from the time and location of the user. In addition, the method may include inferences made from information related to preferences of the user (e.g., see Srinivasan at Abstract; emphasis Applicant's).

Particularly, Srinivasan discloses that the time and location information can be used to provide information to the wireless communication device user concerning alternate driving routes (e.g., see Srinivasan at page 4, paragraph [0039]), a list of stores in a local mall, featured goods and special pricing for stores, featured menu items and pricing for restaurants (e.g., see

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Srinivasan at page 5, paragraph [0046], and page 7, paragraph [0061], bus schedules or the length of the line at a local bank teller window (e.g., see Srinivasan at page 7, paragraph [0063]), promotional product information (e.g., see Srinivasan at page 7, paragraph [0064]), etc.

As mentioned above, the Examiner acknowledges that Srinivasan does not explicitly disclose allowing a user to locate an alternate mechanism after a failure has occurred (i.e., a loss of wireless coverage)(see Office Action at page 3, lines 9-12).

LEHIKONEN

On the other hand, Lehtikoinen discloses that, after a services access key is selected on the mobile station (step 8.1), a determination is made as to whether the mobile station is within a communication range of a beacon and/or whether such communication is possible, i.e. within Bluetooth communication range (step 8.2). If the answer to the query is "yes", the process goes to step 7.3 in FIG. 7 to commence Bluetooth communication (step 8.3).

However, in the event Bluetooth communication is not possible, such that the answer to the query in step 8.2 is "no", the mobile station will enter a remote server mode (step 8.4) to attempt to connect to a mobile station network, e.g., GSM, SMS, etc. The user will then be prompted on the mobile station to accept or reject the remote server mode (step 8.5).

If rejected, the process simply ends without obtaining location information.

If accepted, a remote server will be contacted using any variety of techniques such as GSM, SMS, GPRS or HSCSD (step 8.6). Thereafter, a list of available service categories (e.g., shoe stores, grocery stores, restaurants, etc.) is downloaded to the mobile station (step 8.7)

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whereupon the user will select the desired category from the list (step 8.8) such as via use of a scroll key or other selection function. After the category is selected, information pertaining to the selected category will be provided to the mobile station based on the then-current location of the mobile station (step 8.9) (e.g., see Lehtikoinen at column 7, lines 65-67, and column 8, lines 1-25).

Applicant respectfully submits, however, that Lehtikoinen does not disclose “a location tracker for continuously transmitting information to the wireless device for allowing a user to locate an alternate communication mechanism after the failure has occurred”, as recited in claim 1 (emphasis added).

That is, Lehtikoinen discloses a mobile station that determines whether the mobile station is within a communication range of a beacon and/or whether such communication is possible, not a device (e.g., location tracker) for “continuously transmitting information to the wireless device for allowing a user to locate an alternate communication mechanism after the failure has occurred”, as recited in claim 1.

In other words, a device which merely determines whether the mobile station is within a communication range of a beacon and/or whether such communication is possible, and if not, switches to a remote server mode, and thereafter downloads a list of available services to the mobile station, clearly is not the same as (or comparable to) the claimed “location tracker for continuously transmitting information to the wireless device for allowing a user to locate an

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alternate communication mechanism after the failure has occurred", as recited in claim 1
(emphasis added).

In fact, Lehtikainen specifically states that, only after it is determined that the mobile station is not within a communication range of the beacon, and the user accepts the remote server mode, is a list of available service categories (e.g., shoe stores, grocery stores, restaurants, etc.) downloaded to the mobile station (step 8.7).

Moreover, after the list of available service categories is downloaded, then the user must further select the desired category from the list (step 8.8) such as via use of a scroll key or other selection function, after which information pertaining to the selected category will be provided to the mobile station based on the then-current location of the mobile station (step 8.9) (e.g., see Lehtikainen at column 7, lines 65-67, and column 8, lines 1-25).

Again, in Lehtikainen, all of the downloading occurs after the mobile station determines that the mobile station is not within a communication range of the beacon. Hence, the alleged combination still would not solve any of the problems addressed by the claimed invention, such as a problem where the battery power is inadequate for communication, etc., as recited by independent claims 26, 27, 34, and 35.

That is, if a failure such a loss of adequate battery power for communication (e.g., see independent claims 26, 27, 34, and 35) were to occur in the Examiner's alleged combination, then no list of available service categories could be downloaded and the user would have no way of locating an alternate communication mechanism after the failure has occurred.

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In fact, in stark contrast to the claimed invention, in Lehtikainen, the transmitted information is not used at all to allow the user to locate an alternate communication mechanism after the failure has occurred.

Thus, Lehtikainen clearly does not make up for the deficiencies of Srinivasan by disclosing (or suggesting) a system which allows a user to locate a remote server in case the mobile station can not communicate with a local information beacon (e.g., see Lehtikainen at column 7, line 65 to column 8, line 13).

Indeed, even assuming *arguendo* that it would have been obvious to combine Srinivasan and Lehtikainen, as alleged, the resulting combination still does not arrive at the claimed invention, but rather a completely different invention than that recited in claim 1.

That is, independent claim 1 does not recite locating a remote server in case the mobile station cannot communicate with the local beacon. Instead, independent claim 1 recites “*a location tracker for continuously transmitting information to the wireless device for allowing a user to locate an alternate communication mechanism after the failure has occurred*”, as recited in claim 1 (emphasis added).

Even assuming *arguendo* that it would have been obvious to combine Srinivasan and Lehtikainen, as alleged, the resulting combination still does not disclose or suggest “*a location tracker for continuously transmitting information to the wireless device for allowing a user to locate an alternate communication mechanism after the failure has occurred*”, as recited in claim 1 (emphasis added). Instead, (at best) the alleged combination of Srinivasan and Lehtikainen

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would disclose a completely different invention than that recited in independent claims 1, 26, 27, 34, and 35.

As another example, claim 26 recites a method of locating an alternate communication mechanism in case of a failure of a wireless device, including:

continuously transmitting information to the wireless device for allowing a user to locate an alternate communication mechanism after the failure of said wireless device has occurred

wherein said failure of said wireless device includes at least one of a loss of capability to perform an intended purpose of said wireless device, a loss of connection to a wireless network, a loss of wireless network coverage, a loss of battery power, a loss of adequate battery power necessary for communication, a loss of battery power necessary to maintain a network connection, and a loss of capability of the wireless device to transmit signals (emphasis added).

On the other hand, independent claim 27 recites a method for locating an alternate communication mechanism in case of a failure of a wireless device, including:

monitoring, by a wireless service provider, location coordinates of a wireless device of a user;

based on said location coordinates, consulting at least one database to find at least one candidate resource for assisting the user;

selecting a predetermined candidate resource from said at least one candidate resource to provide a best alternate communication mechanism for the user; and

forwarding said information to said wireless device of said user prior to said failure of said wireless device,

wherein said failure of said wireless device includes at least one of a loss of capability to perform an intended purpose of said wireless device, a loss of connection to a wireless network, a loss of wireless network coverage, a loss of battery power, a loss of adequate battery power necessary for communication, a loss of battery power resources necessary to maintain a network connection, and a loss of capability of the wireless device to transmit signals (emphasis added).

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Applicant respectfully submits that there are features of the claimed invention which clearly are not disclosed or suggested by Srinivasan and Lehtikainen, either individually or in combination. The Examiner is requested to reconsider and withdraw the rejection of independent claims 1, 26, 27, 34, and 35.

Dependent claims 2, 6-8, 11-14, 16-19, 28, 29, and 31-33

With respect to dependent claims 2, 6-8, 11-14, 16-19, 28, 29, and 31-33, Applicant submits that these claims also are patentable over the alleged combination by virtue of their dependency from claim 1, as well as for the additional features recited therein.

For example, claim 2 recites, *inter alia*, that “*said information comprises at least one of textual information, audio information, and image information*”. In contrast, in Lehtikainen, the *information is not* used at all to allow the user to locate an alternate communication mechanism after the failure has occurred. Indeed, the Examiner has not cited any support for the features of claim 2.

On the other hand, dependent claim 6 recites, *inter alia*, that “*said information comprises information which optimizes use of the wireless device*” (emphasis added).

Dependent claim 7 recites, *inter alia*, that the “*information comprises at least one of an upgrade of software used with the wireless device, billing information associated with the wireless device, and data associated with any of a network carrier and a manufacturer of said wireless device.*”

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Claim 8 recites, *inter alia*, that “said information comprises at least one of data which assists the user to continue to use the wireless device, data which assists the user in recovering from a failure of the wireless device, and data which allows continued optimal functioning of the wireless device” (emphasis added).

Applicant respectfully submits that there are features of the claimed invention which clearly are not disclosed or suggested by Srinivasan and Lehtikoinen, either individually or in combination. Indeed, the Examiner has not cited any support for these features in prior art of record.

As yet another example, dependent claim 29 recites, *inter alia*, “calculating a distance and direction to a location that provides the best alternate communication mechanism” (emphasis added).

Further, dependent claim 31 recites, *inter alia*, that “*said information is auditorily conveyed to said user.*”

Dependent claim 32, recites, *inter alia*, that “*said predetermined candidate resource comprises a best candidate resource.*”

Dependent claim 33, recites, *inter alia*, that “*said predetermined candidate resource comprises an optimum resource selected by a service provider of the wireless device.*”

Applicant respectfully submits that there are features of the claimed invention which clearly are not disclosed or suggested by Srinivasan and Lehtikoinen, either individually or in combination. Indeed, the Examiner has not cited any support for these features in prior art of record.

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Therefore, Applicant respectfully submits that there are features of the claimed invention which clearly are not disclosed or suggested by Srinivasan and Lehtikoinen, either individually or in combination. The Examiner is requested to reconsider and withdraw the rejection of dependent claims 2, 6-8, 11-14, 16-19, 28, 29, and 31-33.

B. Claims 3 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Srinivasan in view of Lehtikoinen, and further in view of Carley.

With respect to claims 3 and 30, the Examiner acknowledges that Srinivasan and Lehtikoinen do not explicitly disclose a display on the wireless device for allowing the wireless device to display information that was received prior to the failure. However, the Examiner alleges that Carley makes up for the deficiencies of Srinivasan and Lehtikoinen by disclosing a system (Figure 1) comprising a display 110 on the wireless device 100 for allowing the wireless device to display information (911 from a list) that was received prior to the failure (emergency) (citing Carley at Abstract and column 1, line 64 to column 2, line 11).

Thus, the Examiner asserts that it would have been obvious to modify Srinivasan and Lehtikoinen based on Carley to allow the wireless device to display information that was received prior to the failure in order for the mobile station to know where a gas station is located when running low on fuel, as allegedly taught by Carley (see Office Action at page 4, last paragraph).

Applicant traverses this rejection for the following reasons.

First, Applicant submits that claims 3 and 30 are patentable over the cited references at least by virtue of their dependency from independent claims 1 and 27.

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Second, Applicant submits that the claimed invention as a whole must be considered to determine whether the claimed invention as a whole would have been obvious from the cited references, not merely whether individual elements can be shown in the references.

For example, Carley merely relates to a method for emergency service access using a mobile telephone, which displays “911” and stores a list of emergency numbers to be used by mobile service providers, and which can be accessed without having to enter an access code to unlock the phone prior to making a telephone call.

That is, Carley has nothing to do with displaying “*information that was received prior to the failure*” or playing “*audio information that was received prior to the failure*”, as recited in claim 3, wherein the “*information*” is being continuously transmitted to the wireless device by the location tracker, as recited in claim 1.

Again, clearly if the failure of the wireless device includes, among other things, a loss of capability to perform an intended purpose of the wireless device, a loss of connection to a wireless network, a loss of wireless network coverage, a loss of battery power, a loss of adequate battery power necessary for communication, a loss of battery power necessary to maintain a network connection, and/or a loss of capability of the wireless device to transmit signals, as exemplarily defined by dependent claim 3 (see also claims 26, 27, 34, and 35), then the alleged combination based on Carley clearly would not provide any of the advantages of the claimed invention.

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That is, displaying "911" on a mobile phone which is not capable of actually calling "911" clearly would not provide any of the advantages of the claimed invention, and clearly is not the same as the claimed invention.

For the foregoing reasons, Applicants respectfully submit that Srinivasan clearly does not disclose or suggest all of the features of the claimed invention.

Therefore, Applicant respectfully submits that there are features of the claimed invention which clearly are not disclosed or suggested by Srinivasan, Lehtikoinen, and Carley, either individually or in combination. The Examiner is requested to reconsider and withdraw the rejection of dependent claims 3 and 30.

C. Claims 4, 5, 9, 10, and 20-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Srinivasan in view of Lehtikoinen, and further in view of Farris. Applicant traverses this rejection for the following reasons.

First, Applicant submits that claims 4, 5, 9, 10, and 20-25 are patentable over the cited references at least by virtue of their dependency from independent claim 1.

Second, Farris merely discloses a receiver that detects a beacon signal, which may be a pulse which carries information as to the location of a pay phone. Farris does not, however, disclose or suggest that a failure has occurred with the receiver, or for that matter, that the receiver receives the information as to the location of a pay phone prior to a failure of the receiver, or that the information allows the user to locate an alternate communication mechanism after the failure has occurred, as claimed.

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Again, Applicant respectfully submits that the claimed invention as a whole must be considered to determine whether the claimed invention as a whole would have been obvious from the cited references, not merely whether individual elements can be shown in the references.

Applicant submits that Srinivasan, Lehtikainen, and Farris, either individually or in combination, clearly do not disclose or suggest all of the features of the claimed invention. Thus, the Examiner respectfully is requested to reconsider and withdraw the rejection of claims 4, 5, 9, 10, and 20-25.

III. CONCLUSION

To summarize, Applicant submits that Srinivasan, Lehtikainen, Carley, and Farris, either individually or in combination, clearly do not disclose or suggest all of the features of the claimed invention.

Indeed, even assuming *arguendo* that it would have been obvious to combine the cited references in the manner alleged, the resulting combinations still would not arrive at the claimed invention. Instead, the Examiner's alleged combinations would arrive at completely different inventions than the claimed invention. Indeed, the alleged combinations clearly would not even address or solve the problems being solved by the claimed invention, such as a problem where the battery power is inadequate for communication, etc. (as recited, for example, by independent claims 26, 27, 34, and 35).

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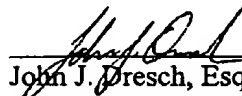
In view of the foregoing, Applicant submits that claims 1-35, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Assignee's Deposit Account No. 09-0441.

Respectfully Submitted,


Date: October 13, 2005


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I certify that I transmitted via facsimile to (571) 273-8300 the enclosed Amendment under 37 C.F.R. § 1.111 to Examiner Keith Ferguson, Art Unit 2683, on October 13, 2005.


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